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## United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

October 27, 2003

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Mr. Chairman:

We are writing to urge the Commission to implement a "broadcast flag" solution that will protect digital content delivered via the broadcast platform. In our view, adoption of this technological tool will significantly advance the digital television transition and will help to place free, off-air broadcasters on a level playing field with cable and satellite platforms in their ability to protect high-value, digital content from illegal Internet redistribution.

The "broadcast flag" solution before the Commission is the result of lengthy, multi-industry negotiations organized by the Broadcast Protection Discussion Group (BPDG) that began in November 2001 between the motion picture, consumer electronics, and information technologies industries. Its aim was to develop a technological solution that would permit consumers to make copies of digital content for use on properly equipped recording devices while preventing the illegal redistribution of those copies. These talks culminated in a final report issued by the BPDG Co-Chairs in June 2002 supporting swift adoption of this technology.

While the implementation of the "broadcast flag" will not obviate the need for further work to address digital piracy risks resulting from the digital conversion of unprotected analog content (the so-called "analog hole" problem), its adoption will mark a significant step forward in our efforts to improve protections for digital over-the-air broadcast programming while preserving the consumer's ability to make copies of such programs for time-shifting or other lawful purposes. Moreover, we believe this step can be taken consistent with the Commission's obligation to regulate in the public interest while honoring the legitimate rights of consumers to view and record digital content.

Earlier this month, the Commission adopted rules as part of its *Plug and Play* proceeding to promote a technological platform that will improve protections for high-value, digital content transmitted over cable and satellite platforms. As the digital television transition moves forward, we believe the Commission has both the authority

and the obligation to resolve its *Broadcast Flag* proceeding in a manner that will provide similar protection for digital content transmitted across the broadcast airwaves. Moreover, such action would serve the public interest by facilitating the concurrent implementation of the plug and play and broadcast flag rules so that television manufacturers will only have to modify their sets once to meet these two standards.

In our view, providing digital broadcasts with the same protection as digital satellite and cable transmissions is critical to preventing the migration of digital content from free TV to cable and satellite systems. It will also allow the continued success of broadcast television that remains an important source of home entertainment programming for most Americans.

We appreciate your attention to this important public interest matter and applaud your efforts to address these difficult issues..

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Hollings", written over a horizontal line.A handwritten signature in blue ink, appearing to read "Tom Stevens", written over a horizontal line.